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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

LANCE T. POSNER, an individual; EVA
M. POSNER, an individual,

Plaintiffs,

v.

U.S. BANK NATIONAL ASSOCIATION;
SELECT PORTFOLIO SERVICING, INC.;
QUALITY LOAN SERVICE, INC.; and
DOES 1-10 inclusive,

Defendant.

Case No. 2:17-cv-03102-MMD-PAL

ORDER

The removed action involves an amended petition for foreclosure mediation (“Petition”). (ECF No. 1-5.) The Court finds that it lacks subject matter jurisdiction, and therefore remand is required.

Plaintiffs Lance and Eva Posner commenced this action in the Eighth Judicial District Court of the State of Nevada in and for the County of Clark on November 15, 2017. (ECF No. 1 at 1; ECF No. 1-1 at 2-15.) On December 21, 2017, Defendants U.S. Bank National Association and Select Portfolio Servicing, Inc. removed the action to this Court on the basis of diversity of citizenship pursuant to 28 U.S.C. § 1332. (ECF No. 1.) However, on December 4, 2017, Plaintiffs filed the Petition, which replaced the original complaint, requesting an order of referral from the state district court to the foreclosure mediation program. (ECF No. 1-5.)

1 A federal district court must remand a case *sua sponte* for lack of subject matter
2 jurisdiction. See 28 U.S.C. § 1447(c) (“If at any time before final judgment it appears that
3 the district court lacks subject matter jurisdiction, the case shall be remanded.”); see also
4 *Kelton Arms Condo. Owners Ass’n, Inc., v. Homestead Ins. Co.*, 346 F.3d 1190, 1192
5 (9th Cir. 2003) (“Subject matter jurisdiction may not be waived, and . . . the district court
6 must remand if it lacks jurisdiction.”) Because the Petition itself is not a civil action,¹ the
7 basis for the Petition is based purely in state law, see NRS § 107.086(2)(a)(4), and this
8 Court does not have the authority to issue a referral to the foreclosure mediation program,
9 this Court does not have jurisdiction over this action.

10 It is therefore ordered that this action is remanded to state court.

11 DATED THIS 8th day of February 2018.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

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¹There is no claim for relief that the Court can adjudicate.